

FACT SHEET

MARCH 1999

Greening the Government: Implementation Procedures for Executive Order 13101

Introduction

Presidential Executive Order (EO) 13101, "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition," September 14, 1998, is a principal Federal policy directive for resource conservation and pollution prevention. EO 13101 promotes reduction and recycling of paper and other solid waste products, promotes acquisition of "environmentally preferable" materials, and creates leaders and task forces in the effort to "Green the Government."

EO 13101 replaces EO 12873, "Federal Acquisition, Recycling, and Waste Prevention," while bolstering many of the same policies, procedures, and pollution prevention goals originally contained in EO 12873.* EO 13101 also furthers the pollution prevention requirements of EO 12856, "Federal Compliance with Right-to-Know Laws and Pollution Prevention," which requires all Federal agencies to comply with the Pollution Prevention Act of 1990 (PPA).

EO 13101 states: "Consistent with the demands of efficiency and cost effectiveness, the head of each executive

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agency shall incorporate waste prevention and recycling in the agency's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products. It is the national policy to prefer pollution prevention, whenever feasible. Pollution that cannot be prevented should be recycled; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner. Disposal should be employed only as a last resort."

"Consistent with policies established by the Office of Federal Procurement Policy (OFPP) Policy Letter 92-4, agencies shall comply with executive branch policies for the acquisition and use of environmentally preferable products and services and implement cost-effective procurement preference programs favoring the purchase of these products and services."

This fact sheet discusses the implementation of EO 13101, the major provisions of the EO, and specific requirements applicable to GSA. To determine how pollution prevention (P2) concepts can be integrated into National Environmental Policy Act (NEPA) documents, see the NEPA Call-In factsheet, "Pollution Prevention: Requirements, Practices and Guidance on NEPA Implementation," September 1998.

* For a brief discussion of other Pollution Prevention EOs, see page 3

NEPA Call-In

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Implementing the Order

EO 13101 creates a **Steering Committee** and a **Task Force** to implement the provisions of the EO. The **Steering Committee** consists of the Chair of the Council on Environmental Quality (CEQ), the Federal Environmental Executive (FEE), and the Administrator for Federal Procurement Policy (OFPP). The **Task Force** is comprised of staff from the major procuring agencies, including GSA. The EO directs GSA to provide resources and support to the Task Force.

The FEE was originally established by EO 12873. Under EO 13101, the FEE is directed to design a government-wide plan to implement procurement of recycled goods and creation of government recycling programs with the assistance of **Agency Environmental Executives (AEEs)** and the **Task Force**. The FEE is required to prepare a biennial report to the President on agency compliance with this order. GSA (in addition to the U.S. Environmental Protection Agency (EPA), U.S. Department of Agriculture (USDA), and OFPP) is responsible for assisting the FEE in convening a group of acquisition/procurement managers from Federal, State, and Local governments, to improve trans-governmental recycling and procurement of environmentally preferable goods.

EO 13101 also directs each Executive Agency, including GSA, is to appoint an **AEE** and a **Recycling Coordinator** for each facility or installation. The AEEs will be responsible for translating the Government-wide Strategic Plan into specific agency goals and plans, implementing these plans, and reporting to the FEE. The AEE shall track procurement of EPA-designated guideline items, and procurement personnel shall justify in writing to the AEE if EPA criteria are not met. The AEE shall also estimate agency purchases of USDA biobased products and report findings to the Secretary of Agriculture. The **Recycling Coordinator** from each facility or installation is directed to implement and maintain waste prevention and recycling programs according to the plan designed by the AEE.

Recycling and Waste Reduction

EO 13101 directs each executive agency to set goals for recycling and solid waste diversion and report on the progress of reaching such goals. Goals regarding recycling are to include not only typically-recycled products such as paper, aluminum, plastic, and glass, but also pallets, toner cartridges, batteries, scrap metal, and fluorescent lamps and ballasts. By March 14, 1999, GSA was required to submit to the FEE a list of short-term goals to be achieved by January 1, 2000, and a list of long-range goals to be achieved by 2005 and 2010.

Within the scope of these goals, GSA is directed to consider:

- Increased procurement of goods made with recovered materials;
- Increased use of environmentally preferable products and services that have been tested under any pilot program.
- Incorporating established goals into their Government Performance Results Act annual performance plans. GSA should also submit goals to the Office of Management and Budget with the FY 2001 budget.

Acquisition of Environmentally Preferable Materials

Since 1976, the Resource Conservation and Recovery Act (RCRA) has required Federal agencies to develop affirmative procurement programs that include preference for recovered materials; intra-agency promotions of awareness; estimates and verifications of total percentage of recovered material used in performance of a contract; and an annual affirmative procurement effectiveness review.

Additionally, EO 13101 requires the following specific means of affirmative procurement:

- shared responsibility for affirmative procurement between program personnel and GSA acquisition and procurement personnel;
- consultation with EPA, when appropriate, to maximize environmental benefits, in conjunction with price, performance, and availability;

Pollution Prevention Executive Orders

To promote pollution prevention as the preferred environmental management technique, President Clinton has issued several EOs that directly or indirectly address pollution prevention. These EOs require Federal agencies to integrate waste reduction and recycling into their environmental management programs, including setting waste minimization and recycling goals. Primary among the EOs addressing pollution prevention is EO 12856, which requires that all Federal Executive Agencies and facilities comply with the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and the Pollution Prevention Act of 1990 (PPA). The following is a brief summary of these pollution prevention EOs.

EO 12856—Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements (August 3, 1993)

- Develop a facility-wide pollution prevention plan by December 31, 1995, to reduce releases and transport of pollution by 50 percent;
- Ensure that the plan supports agency-wide reduction strategies and goals;
- Establish agency plans and goals to eliminate or reduce unnecessary acquisition of products containing hazardous substances or toxic chemicals;
- Make strategies, plans, and Toxic Release Inventory (TRI) reports available to the communities surrounding the facility; comply with EPCRA emergency planning and response requirements; and report releases and transfers of toxic chemicals to the TRI.

EO 12873—Federal Acquisition, Recycling, and Waste Prevention (October 20, 1993—Canceled by EO 13101)

- Establish goals for solid waste prevention and recycling to be achieved by 1995; and
- Procure products that are environmentally preferable or that are made with recovered materials, and set annual goals to maximize the number of recycled products purchased.

EO 12902—Energy Efficiency and Water Conservation (March 8, 1994)

- Reduce the overall energy use in Federal buildings by 30 percent by 2005;
- Increase overall energy efficiency in industrial facilities by 20 percent by 2005;
- Significantly increase the use of solar and other renewable energy sources; and
- Minimize the use of petroleum products at Federal facilities by switching to less polluting alternative energy sources.

EO 12843—Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances (April 21, 1993)

- Maximize use of alternates to ozone-depleting substances; and
- Modify procurement specification and practices to substitute non-ozone-depleting substances.

EO 12844—Federal Use of Alternative Fueled Vehicles (April 21, 1993)

- Procure and use alternative fueled vehicles, where possible, to reduce toxic and hazardous air pollutants; and
- Purchase 50 percent more alternative fueled vehicles from 1993 through 1995 than currently specified in the Energy Policy Act of 1992. While the facility may not be scheduled to purchase such vehicles, it should investigate and purchase such vehicles if possible.

EO 12845—Purchasing Energy Efficient Computer Equipment (April 21, 1993)

- Meet EPA "Energy Star" energy efficiency requirements in the purchase of computer equipment;
- Equip existing computer equipment with energy efficient low-power stand-by feature; and
- Educate staff about the environmental and economic benefits of energy efficiency.

EO 12898—Federal Actions to Address Environmental Justice

- Encourages Federal facilities to document potential environmental impacts in environmental justice areas and target such impacts for reduction through pollution prevention.

EO 12969—Federal Acquisition and Community Right-to-Know" (August 10, 1995)

- Requires Federal agencies include in contract solicitations as an eligibility criterion for competitive acquisition contracts expected to exceed \$100,000, the requirement that Federal contractors ensure that Toxic Chemical Release Inventory forms (Form Rs) are filed by their covered facilities for the life of the contract; and
- The solicitation must direct offerers to include in their response to the solicitation a certification that the offerer will ensure that its covered facilities file Form Rs for the life of the contract unless an exemption provided by the EO applies.

- all purchases must meet or exceed the EPA guidelines contained in Title 40 Code of Federal Regulations (CFR) Part 247, subpart B (see text box on page 4);
- the revision of purchasing guidelines to include new items within one year of the addition to the guidance. Written justification must be provided if EPA guidelines are not met due to product unavailability, poor quality, or excessive expense; and
- implementation or proof of establishment of affirmative procurement programs on or before December 14, 1998 (90 days after release of EO).

EO 13101 directs GSA program and acquisition managers, when evaluating and awarding contracts and procuring goods, to consider bio-based products, recycled and recovered materials, elimination of virgin material requirements, waste and toxicity prevention, and ultimate disposal. This stipulation has potentially far-reaching consequences given GSA's role in purchasing products and supplies for the Federal government. The EO applies to binders, toner cartridges, plastic desktop accessories, trash/recycling containers, re-refined engine oil, retread tires, building insulation, and landscaping materials, in addition to more commonly known products such as paper.

To support agencies' affirmative procurement programs, EO 13101 directs the EPA to publish guidance documents, including:

- A Comprehensive Procurement Guideline (CPG) designating items that are or can be made with recovered materials;
- "Recovered Materials Advisory Notices" describing levels of recovered materials currently available in said items; and
- "Guidance on Acquisition of Environmentally Preferable Products and Services" designed for Government-wide use and targeted at the most effective products and services.

The EO also encourages agencies to create pilot projects to test and evaluate EPA's "Guidance on Acquisition of Environmentally Preferable Products and Services".

Title 40 CFR 247

Subpart B—Item Designations

Sec. 247.10 Paper and paper products.

Paper and paper products, excluding building and construction paper grades.

Sec. 247.11 Vehicular products.

(a) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils.

(b) Tires, excluding airplane tires.

(c) Reclaimed engine coolants, excluding coolants used in non-vehicular applications.

Sec. 247.12 Construction products.

(a) Building insulation products, including the following items:

(1) Loose-fill insulation, including but not limited to cellulose fiber, mineral fibers (fiberglass and rock wool), vermiculite, and perlite;

(2) Blanket and batt insulation, including but not limited to mineral fibers (fiberglass and rock wool);

(3) Board (sheathing, roof decking, wall panel) insulation, including but not limited to structural fiberboard and laminated paperboard products, perlite composite board, polyurethane, polyisocyanurate, polystyrene, phenolics, and composites; and

(4) Spray-in-place insulation, including but not limited to foam-in-place polyurethane and polyisocyanurate, and spray-on cellulose.

(b) Structural fiberboard and laminated paperboard products for applications other than building insulation, including building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayments, and roof overlay (coverboard).

(c) Cement and concrete, including concrete products such as pipe and block, containing coal fly ash or ground granulated blast furnace (GGBF) slag.

(d) Carpet made of polyester fiber for use in low- and medium-wear applications.

(e) Floor tiles and patio blocks containing recovered rubber or plastic.

(f) Shower and restroom dividers/partitions containing recovered plastic or steel.

(g)(1) Consolidated latex paint used for covering graffiti; and

(2) Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceilings, and trim; gutter boards; and concrete, stucco, masonry, wood, and metal surfaces.

Sec. 247.13 Transportation products.

- (a) Traffic barricades and traffic cones used in controlling or restricting vehicular traffic.
- (b) Parking stops made from concrete or containing recovered plastic or rubber.
- (c) Channelizers containing recovered plastic or rubber.
- (d) Delineators containing recovered plastic, rubber, or steel.
- (e) Flexible delineators containing recovered plastic.

Sec. 247.14 Park and recreation products.

- (a) Playground surfaces and running tracks containing recovered rubber or plastic.
- (b) Plastic fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

Sec. 247.15 Landscaping products.

- (a) Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation.
- (b) Compost made from yard trimmings, leaves, and/or grass clippings for use in landscaping, seeding of grass or other plants on roadsides and embankments, as a nutritious mulch under trees and shrubs, and in erosion control and soil reclamation.
- (c) Garden and soaker hoses containing recovered plastic or rubber.
- (d) Lawn and garden edging containing recovered plastic or rubber.

Sec. 247.16 Non-paper office products.

- (a) Office recycling containers and office waste receptacles.
- (b) Plastic desktop accessories.
- (c) Toner cartridges.
- (d) Binders.
- (e) Plastic trash bags.
- (f) Printer ribbons.
- (g) Plastic envelopes.

Sec. 247.17 Miscellaneous products.

- (a) Pallets containing recovered wood, plastic, or paperboard.

New Standards GSA Must Adopt

Paper

EO 13101 revises EO 12873's standards for paper purchasing requirements. According to EO 13101, GSA must comply with the following standards:

- All GSA purchased office paper must contain at least 30% post-consumer materials. This includes copier, computer, carbonless, writing, book, cotton fiber and offset paper, forms bond, cover stock, file folders, and white wove envelopes.
- When 30% recycled paper is not reasonably available due to unreasonable cost, quality, or acquisition time, GSA will purchase paper containing no less than 20% post-consumer material.
- As an alternative to the two standards above, GSA may purchase printing and writing papers containing 50% recovered materials that are a non-paper or textile waste byproduct which would otherwise be disposed of in a landfill.

Additionally, GSA must

- Review and eliminate all unnecessary brightness, virgin material and stock clause provisions for paper by March 14, 1999. Such requirements may unnecessarily hinder the purchase of recycled paper;
- Consult closely with the Joint Committee on Printing during such evaluation; and
- Compile information and market studies found necessary to complete this review.

Vehicles

There are several ways in which GSA can "Green the Government" as the controlling purchaser of the Federal vehicle fleet. EO 13101 requires:

- Fleet and commodity managers to begin acquiring re-refined lubricating oil and retread tires;

- GSA to consider biobased (e.g. vegetable) oils in lieu of petroleum based products; and
- GSA, with the assistance of the FEE, to study and, if possible, utilize the Department of Defense's Cooperative Tire Qualification Program, the Cooperative Approval Tire List, and the Cooperative Plant Qualification Program, regarding retread tires.

Scope of EO 13101 Applicability

"Greening the Government" also applies to Federal contractors who operate a Government-owned or leased facility, or support Federal activity at a facility. Contracts awarded by GSA after September 14, 1998 must stipulate that the contractor comply with EO 13101.

Furthermore, as of December 14, 1998, Federal agencies must ensure compliance with this order in the acquisition and management of Federally owned and leased space. This requires that, to the extent allowed by law and when economically feasible, all new Federal property acquisitions must include environmental and recycling provisions in the management of leased space or construction of new buildings.

GSA is to continue retaining funds from the sale of materials recovered from recycling and waste prevention, and may be asked by non-GSA managed facilities to assist in planning similar programs.

All agencies are to create a "model facility," where as many pollution preventing techniques as possible can be employed. This includes, but is not limited to, extensive recycling programs, use of biobased products, increased use of recovered materials,

organic composting, and any innovative and feasible approach to pollution prevention, Government Greening, and waste reduction. The most impressive model facilities will likely become candidates for a Presidential Government-wide award, given annually, to promote pollution prevention and increase visibility of Federal waste reduction. Additionally, GSA will develop its own internal agency awards for the most innovative and effective facilities under its control.

For More Information

EPA and other Federal agencies have compiled a substantial amount of information on P2, EO 13101, and implementation procedures. For P2 information, see EPA's Office of Pollution Prevention and Toxics (OPPT's) P2 web site at: "<http://www.epa.gov/opptintr/p2home/>".

To view EO 13101, visit the NEPA Call-In web site at: www.gsa.gov/pbs/pt/call-in/erlsub1.htm

Additional information on P2 or EO 13101 is available from NEPA Call-In at (202) 208-6228.

References

EO 12873, "Federal Acquisition, Recycling, and Waste Prevention," October 20, 1993.

EO 13101, "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition," September 14, 1998.

"Pollution Prevention: Requirements, Practices, and Guidance on NEPA Implementation," Fact Sheet, TI 0305, August 1998.

Resource Conservation and Recovery Act of 1976, Title 42 United States Code 6962, "Federal Procurement."

Title 40 CFR, Chapter I, "Environmental Protection Agency," Part 247.

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